


Attorney Docket No. 5725.0656-01
Application No.: 09/685,577



- R⁴, which are identical or different, are each chosen from hydrogen atoms, C₁ to C₁₀ alkyl groups and a direct bond to group chosen from R³ and another R⁴ such that when said at least one group is chosen from another R⁴, the nitrogen atom to which both R³ and R⁴ are bonded forms part of a heterocyclic structure defined in part by R⁴-N-R³, with the proviso that at least 50% of all R⁴ are chosen from hydrogen atoms.—

In accordance with the requirements of 37 C.F.R. § 1.121, the attached Appendix shows the changes that have been made by the proposed amendments.

REMARKS

I. Status of the Claims

Claims 1-188 are pending in this application. Claims 1, 91, and 178 have been amended to recite "cosmetic" compositions. Support for these amendments can be found throughout the specification and claims. See e.g., page 2, lines 18-22. Claims 184-188 have been added. Support for claims 184-188 can be found throughout the specification and claims. For example, support for claims 184, 186, and 188 can be found in original claims 1 and 33; support for claim 185 can be found in original claims 81 and 84; and support for claim 187 can be found in original claims 1 and 91. Accordingly, no new matter has been added.

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II. Information Disclosure Statement filed October 18, 2002

On the PTO Form 1449 filed with an Information Disclosure Statement on October 18, 2002, the following co-pending and related PCT applications were cited:

Co-Pending Application No. 09/749,036; Attorney Docket No. 5725.0832-00 Title: COMPOSITION COMPRISING AT LEAST ONE HETERO POLYMER AND AT LEAST ONE PASTY FATTY SUBSTANCE AND METHODS FOR USE Inventors: Véronique FERRARI et al. U.S. Filing Date: December 28, 2000
PCT Application No. PCT/US01/47459; Attorney Docket No. 5725.0594-0304 Title: COSMETIC COMPOSITIONS CONTAINING AT LEAST ONE HETEROPOLYMER AND AT LEAST ONE FILM-FORMING SILICONE RESIN AND METHODS OF USING Inventors: Mohamed KANJI et al. U.S. Filing Date: December 12, 2001
PCT Application No. PCT/US01/47499; Attorney Docket No. 5725.0595-0304 Title: COSMETIC COMPOSITIONS CONTAINING HETEROPOLYMERS AND OIL-SOLUBLE CATIONIC SURFACTANTS AND METHODS OF USING SAME Inventors: Carlos PINZON and Paul THAU U.S. Filing Date: December 12, 2001
PCT Application No. PCT/FR01/03985; Attorney Docket No. 5725.0795-01-304 Title: COSMETIC COMPOSITION COMPRISING HETERO POLYMERS AND A SOLID SUBSTANCE AND METHOD OF USING SAME Inventors: Roberto CAVAZZUTI et al. International Filing Date: December 12, 2001
PCT Application No. PCT/US01/47454; Attorney Docket No. 5725.0806-0304 Title: COMPOSITIONS CONTAINING HETEROPOLYMERS AND OIL-SOLUBLE POLYMERS AND METHODS OF USING SAME Inventors: Carlos PINZON and Paul THAU U.S. Filing Date: December 12, 2001
PCT Application No. PCT/US01/47497; Attorney Docket No. 5725.0808-0304 Title: COMPOSITIONS CONTAINING HETEROPOLYMERS AND OIL-SOLUBLE ESTERS AND METHODS OF USING SAME Inventors: Carlos PINZON and Paul THAU U.S. Filing Date: December 12, 2001
PCT Application No. PCT/US01/47496; Attorney Docket No. 5725.0809-0304 Title: COMPOSITIONS CONTAINING HETEROPOLYMERS AND METHODS OF USING SAME Inventors: Carlos PINZON and Paul THAU U.S. Filing Date: December 12, 2001
PCT Application No. PCT/FR01/03962; Attorney Docket No. 5725.0816-01-0304 Title: COMPOSITION COMPRISING AT LEAST ONE HETERO POLYMER AND AT LEAST ONE INERT FILLER AND METHODS FOR USE Inventors: Véronique FERRARI et al. International Filing Date: December 12, 2001
PCT Application No. PCT/FR01/03963; Attorney Docket No. 5725.0817-01-0304 Title: COSMETIC COMPOSITIONS CONTAINING AT LEAST ONE HETEROPOLYMER AND AT LEAST ONE GELLING AGENT AND METHODS OF USING THE SAME Inventor: Véronique FERRARI International Filing Date: December 12, 2001

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Co-Pending Application No. 10/129,377; Attorney Docket No. 5725.0819-01
Title: COMPOSITION STRUCTURED WITH A POLYMER CONTAINING A HETEROATOM AND ORGANOGELATOR
U.S. Filing Date: May 3, 2002

Although the Examiner returned the PTO Form 1449 with the Notice of Allowance dated November 19, 2002, and initialed beside each of the above-listed applications, thus indicating that she had considered these documents, she also drew a line through each of the citations. Accordingly, Applicants respectfully request that the Examiner confirm that each of the above documents was considered by her. For the Examiner's convenience, a duplicate copy of each of the above-listed applications is enclosed herewith, and each is listed on the PTO Form 1449 also submitted herewith.

III. Comments on the Examiner's Statement of Reasons for Allowance

At page 2 of the Notice of Allowability, the Examiner has made a representation concerning the scope of the present invention. This representation appears to be based on independent claim 1. Applicants note, however, that the present application contains 188 claims, each having a different scope.

With respect to U.S. Patent No. 6,242,509 B1 to Berger et al. ("*Berger*"), the Examiner asserts that *Berger* "fails to teach the combination of a structured polymer comprising at least one dyestuff and a liquid fatty phase wherein the liquid fatty phase is structured with a structuring polymer comprising a polymeric skeleton with repeating units comprising at least one hetero atom, wherein the structured composition is in the form of a wax-free solid."

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Applicants note that *Berger* is drawn to gels comprising an ester-terminated dimer acid-based polyamide and a solvent. See Abstract. However, *Berger* fails to teach or suggest, *inter alia*, cosmetic compositions comprising a dyestuff and a polymer as presently claimed. In The American Heritage College Dictionary, "cosmetic" is defined as, *inter alia*, "[d]ecorative rather than functional." See page 313, a copy of which is attached herewith. Applicants submit that the art of record fails to teach a composition comprising at least one dyestuff and at least one continuous liquid fatty phase, wherein the at least one continuous liquid fatty phase is structured with a sufficient amount of at least one specific structuring polymer, and wherein the composition is a cosmetic composition. For example, in Example 52, *Berger* discloses an insect stick containing DEET. However, one of ordinary skill in the art would recognize that the addition of DEET, a known insect repellent, renders that composition functional, and thus, Example 52 of *Berger* does not anticipate or render obvious the presently claimed cosmetic compositions.

New claim 185 is drawn to a structured composition comprising at least one dyestuff and at least one continuous liquid fatty phase, wherein, *inter alia*, the at least one continuous liquid fatty phase is structured with a sufficient amount of at least one specific structuring polymer, and the structured composition is not in the form of a stick. Applicants submit that the art of record fails to teach a composition comprising at least one dyestuff and at least one continuous liquid fatty phase, wherein the at least one continuous liquid fatty phase is structured with a sufficient amount of at least one specific structuring polymer, and wherein the composition is not in the form of a stick. For example, as discussed above, Example 52 of *Berger*

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discloses an insect stick. Further for example, page 3 of Bush Boak Allen's formulations discloses a "soothing clear sports rub stick." Accordingly, as these examples teach compositions in the form of a stick, they fail to teach or suggest the subject matter of new claim 185.

New claim 187 is drawn to a care composition for at least one keratin material consisting essentially of at least one dyestuff and at least one continuous liquid fatty phase, wherein, *inter alia*, the at least one continuous liquid fatty phase is structured with a sufficient amount of at least one structuring polymer according to the present invention. As used in claim 187, the term "consisting essentially of" is intended only to exclude camphor and DEET (N,N-diethyl-m-toluamide), which are skin irritants. For example, Example 52 of *Berger* is an insect stick and comprises 15 wt % DEET. Similarly, Bush Boake Allen's "soothing clear sports rub stick," discussed above, comprises 5.2% camphor. These examples fail to teach or suggest the subject matter of new claim 187. Accordingly, Applicants submit that the art of record fails to teach a care composition consisting essentially of at least one dyestuff and at least one continuous liquid fatty phase, wherein the at least one continuous liquid fatty phase is structured with a sufficient amount of at least one specific structuring polymer.

IV. Conclusion

Applicants respectfully request reconsideration of this application and the timely allowance of the pending claims.

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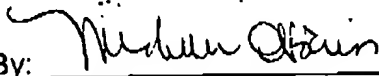
Please grant any extension of time under 37 C.F.R. § 1.136 required to enter
this paper and charge those additional fees to our Deposit Account No. 06-916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: July 3, 2003

By:


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